

IT IS ORDERED

Date Entered on Docket: February 4, 2021



The Honorable David T. Thuma
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW MEXICO

In re:

ERLINDA SILVA

Debtors.

Case No. 13-19-12274 TA

US Bank Trust, N.A. vs. Debtor.

STIPULATED ORDER MODIFYING AUTOMATIC STAY

THIS MATTER comes before the Court on the agreement of the Debtor, by and through her attorney of record Michael K. Daniels and US Bank Trust, N.A., Not in its Individual Capacity but Solely as Owner Trustee for VRMTG Asset Trust, by and through its servicing agent Fay Servicing, LLC, (hereinafter "US Bank") by and through its attorney of record, Jason Bousliman, and by the Trustee as is shown by the signatures of counsel below. Based upon the stipulation of the parties, the Court:

FINDS:

1. Debtor filed bankruptcy October 2, 2019. Docket No. 1.

2. Debtor owns property at 2100 Ryan Pl. NW, Albuquerque, NM, in which US Bank has a properly perfected security interest (hereinafter “The Property”).

3. Debtor has fallen into arrears on her mortgage obligation to US Bank in the amount of \$3,186.41 as of October 26, 2020.

4. US Bank filed a motion for relief from stay on October 26, 2020. Docket No. 53.

5. Debtor timely objected to the stay relief motion. Docket No. 55.

6. The parties have reached agreement on a method by which Debtor can cure the existing mortgage arrears.

7. The Stipulation is well taken, and should be approved.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

1. US Bank will accept the following as adequate protection of the obligation due it from Debtor, and Debtor shall:

a. Maintain adequate insurance to protect the Property with US Bank named as an additional loss payee on the policy;

b. Pay all regular monthly mortgage payments starting in February of 2021 directly to US Bank and not through the Trustee.

c. Pay the additional sum of \$350 directly to US Bank on the 15th of each month, beginning with February 15, 2021, for a period of nine (9) months.

d. Make all payments to the Trustee required by her Chapter 13 Plan.

2. In the event Debtor fails to strictly comply with the obligations of paragraph 1 above, US Bank shall serve a notice by first class mail on Debtor and on Debtor’s counsel. If Debtor has failed to cure the default within ten (10) days after the service of the notice, the automatic stay shall be modified to permit US Bank to exercise all rights or remedies contained in

the Note and Mortgage, or in New Mexico law or equity, in order to foreclose on the Property, without further hearing, notice or order of this Court, upon the filing of an ex parte affidavit of default, which shall entitle US Bank to an order granting relief from stay as to these matters.

3. US Bank may not seek to collect any unpaid charges as a personal liability of the Debtor unless the above captioned bankruptcy proceeding is dismissed or discharge is denied.

4. If this case is dismissed or discharged, this Agreement shall be terminated, and have no further force or effect; any automatic termination of the automatic stay pursuant to the terms of this Order shall remain in full force and effect should the case be converted to Chapter 7, and in the event of a conversion prior to a termination of the stay, US Bank reserves the right to seek stay relief by motion.

5. Cause exists for a waiver of Bankruptcy Rule 4001(a)(3). This Order shall be effective immediately upon entry hereof.

End of Order

Submitted by:

Submitted via email 1/28/21
Michael K. Daniels
Attorney for Debtor
P.O. Box 1640
Albuquerque, N.M. 87103
(505) 246-9385; 246-9104 fax
mike@mdanielslaw.com

Approved by:
McCarthy & Holthus, LLP

By: Emailed consent 1/29/21
Jason Bousliman
Attorney for US Bank
6501 Eagle Rock NE, Suite A-3
Albuquerque, NM 87113
(505) 219-4900
jbousliman@mccarthyholthus.com

Emailed consent 1/29/21
Tiffany M. Cornejo, Trustee
625 Silver Ave. SW #350
Albuquerque, NM 87102
(505) 243-1335; 247-2709 fax
trustee@ch13nm.com